

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS**

SCANSOFT, INC.

Plaintiff,

v.

ART ADVANCED RECOGNITION
TECHNOLOGIES, INC.

Defendant.

Civil Action No. 04-10840-PBS

ORAL ARGUMENT REQUESTED

**DEFENDANT'S MEMORANDUM OF LAW
IN SUPPORT OF ITS MOTION TO DISMISS THE COMPLAINT**

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Defendant ART Advanced Recognition Technologies, Inc. (“ART”) submits this memorandum in support of its Motion to Dismiss the Complaint for failure to state a claim under Fed. R. Civ. P. 12(b)(6). The plaintiff, ScanSoft, Inc. (“ScanSoft”), has broadly alleged that ART’s “products” infringe U.S. Patent No. 6,501,966 (“the ‘966 patent”), entitled “Speech Recognition System for Electronic Switches in a Non-Wireline Communications Network.”

This case is ripe for dismissal. Simply put, if the ‘966 patent covers ART’s products – as ScanSoft alleges – then the ‘966 patent is *invalid because it reads on the prior art*. ScanSoft has put itself in a Catch-22 situation – either the ‘966 patent is invalid because it covers ART’s products and the prior art, or ART’s products are not covered by the claims of the ‘966 patent.

Because ART cannot be liable for infringement in either case, ScanSoft’s complaint against ART should be dismissed.

I. INTRODUCTION

ART’s speech recognition products, although state-of-the-art in terms of the actual technology used, operate functionally the way people have been doing telephone-based speech recognition for years: a speech recognition module is *embedded* in the hand-set of a cellular phone. ScanSoft’s patent, on the other hand, moves the speech recognition component to the centrally-located telephone switches operated by the phone company – perhaps a novel idea when its earliest patent application was filed (ART takes no position on that for purposes of this memorandum), but clearly different than what the industry has done for years.

The Court can rule on this motion so early in the proceedings, before any discovery, because there can be no issue that *if* the ‘966 patent covers speech recognition technology embedded in the hand-set of a cellular phone, *as ScanSoft alleges*, then the patent is invalid as a matter of law.

Because there are no facts alleged in the complaint that, if proven, would entitle the plaintiff to relief, this case should be dismissed.¹

II. BACKGROUND

A. ART's Leading Speech Recognition Technology.

ART is a pioneer and market leader in the field of embedded speech and handwriting recognition solutions for mass-market mobile devices. (Declaration of Eran Aharonson (“Aharonson Decl.”) ¶ 4, attached as Ex. D.) Established in 1990, ART was the first company to successfully introduce name-dialing speech command for mass-produced cellular handsets. (Aharonson Decl. ¶ 4.) Since then, ART has generated a decade of award-winning software solutions for mobile devices. (Aharonson Decl. ¶ 4.) ART markets a range of proprietary technologies designed for use in cellular handsets, smart-phones, PDAs (Personal Digital Assistants) and other systems. (Aharonson Decl. ¶ 4.)

ART's speech recognition technology is an “embedded” solution. (Aharonson Decl. ¶ 5.) What that means is that ART's speech recognition technology resides entirely *in* the mobile device, such as a cellular phone or PDA. (Aharonson Decl. ¶ 5.) In particular, ART's speech recognition technology is on the circuit board of the mobile device, and is self-contained in the handset of a cellular phone. (Aharonson Decl. ¶ 5.) ART's speech recognition technology does not rely on any connection to the phone network, and does not involve any interaction (*e.g.*, sending and/or receiving a command) between the mobile hand-set and the switching office of

¹ Noticeably, ScanSoft has failed to make any specific allegation in its complaint against any of ART's speech recognition products. Rather, ScanSoft only generally accuses ART's “products” of infringing the ‘966 patent, even though a listing and description of ART's speech recognition products is publicly available on ART's web site (www.artcomp.com). Clearly, ScanSoft's failure to identify any of ART's products arises from a fear that to do so would provide incontrovertible evidence of its over-reaching, and would squarely invalidate the ‘966 patent.

the telecommunications network which connects the mobile phone to the land-based telephone system. (Aharonson Decl. ¶ 6.)

B. ScanSoft Is A Late Entrant To The Speech Recognition Market

As its name suggests, ScanSoft was a company involved primarily in optical scanning.² ScanSoft only entered the speech recognition market in December 2001, when it purchased speech recognition technology out of bankruptcy from Lernout & Hauspie Speech Products Products N.V. and L&H Holdings USA, Inc. (collectively, L&H). In 2003, ScanSoft acquired additional speech recognition technology from Philips Electronics and SpeechWorks, two companies in the general speech technology markets.

The patent asserted here was acquired in the transaction from Philips Electronics. The speech technology assets acquired by ScanSoft from L&H, Philips Electronics and Speechworks are not well-suited for mobile phones, and therefore, have not found a market among mobile phone manufacturers. By contrast, ART's speech recognition software was specifically designed to reside in mobile phones and has been very successful in the mobile phone marketplace. (Aharonson Decl. ¶ 4-5.)

It appears that ScanSoft has filed this suit in an attempt to make up for the failure of its speech recognition technology in the mobile phone marketplace, and particularly, with the improper motive to retard ART's ability to enter business relationships without the Damoclean sword of patent litigation hanging over its head.

C. The '966 Patent Does Not Cover Embedded Speech Technology.

The prior art cited during the prosecution of the '966 patent makes abundantly clear that the patent was not, and could not, have been intended to cover speech recognition technology

² The Court is familiar with ScanSoft from a co-pending case, ScanSoft, Inc. v. Voice Signal Technologies, Inc., Civil No. 04-10353-PBS. The '966 patent is also being asserted in that case.

that was embedded in a mobile device. Indeed, at least *three* prior art references cited in the patent described speech recognition systems just like ART's speech recognition products, with the speech recognition module in the handset.

III. ARGUMENT

A. **If The ART Technology Infringes The '966 Patent, As Scansoft Contends, Then The Patent Is Invalid, And Dismissal As A Matter Of Law Pursuant To Rule 12(b)(6) Is Appropriate.**

A court must dismiss a patent infringement case for failure to state a claim when the asserted patent is invalid. See Richards v. Chase Elevator Co., 158 U.S. 299, 301 (1895);³ see also 60 Am. Jur. 2d Patents § 887 (2003). A complaint should be dismissed when there are no facts alleged in the complaint that, if proven, would entitle the plaintiff to relief. See Conley v. Gibson, 355 U.S. 41, 45-46 (1957).

To be clear, ART does not believe that its products infringe *any* claim of the ScanSoft patent. However, because *ScanSoft* contends that ART's "products" infringe the '966 patent, ScanSoft's allegations must be taken as true for purposes of this motion. Because ScanSoft has alleged that its patent covers mobile devices with voice recognition technology embedded within the devices, just like the prior art references in the patent prosecution file, ScanSoft's allegations in its complaint act as a binding admission by ScanSoft that the patent claims cover the accused products for invalidity purposes. See Evans Cooling Sys., Inc. v. Gen. Motors Corp., 125 F.3d 1448, 1451 (Fed. Cir. 1997). In Evans, the Federal Circuit stated that "[a]lthough [an accused infringer] bore the burden of proving that [the accused product] embodied the patented invention

³ The Richards case and a related Supreme Court case from 1882 "remain good law, though the courts have relied upon them infrequently." SmithKline Beecham Corp. v. Apotex Corp., 365 F.3d 1306, 1321 (Fed. Cir. 2004) (Gajarsa, J., concurring).

or rendered it obvious..., this burden is met by [the plaintiff's] allegation forming the sole basis for the complaint, that the [accused product] infringes.” Id.

The prior art references found in the patent file demonstrate that the applicants of the ‘966 patent could have had no *honest* intent prior to or during prosecution to cover speech technology embedded in a cellular phone, and that the Patent Examiner could not have believed the allowed claims cover such embedded speech technology. (Of course, ART cannot comment now on the *actual* intent of the applicants, but suffice it to say, if they did intend the patent to cover the prior art, they have other issues to answer for.)

1. Prior Art Reference #1: “Dialing a Phone by Voice,” 1991

An article from 1991 entitled “Dialing a Phone by Voice,” by Pawate *et al.*, Machine Design, pp. 95-98 (attached as Ex. A), describes speech recognition technology embedded within a voice dialer for a cellular car phone. Listed in the chart below is excerpted language from this reference compared to the language of independent claim 1 of the ‘966 patent, as ART understands ScanSoft must be alleging that claim to be read (*i.e.*, covering devices with embedded speech recognition technology), and not as ART believes the claims properly should be read (*i.e.*, not covering devices, like the prior art, with embedded speech recognition technology). To the extent that any of the other independent claims of the ‘966 patent, claims 20 and 26, are interpreted by ScanSoft to cover devices with embedded speech recognition technology, then those claims similarly read on the prior art and are invalid.

Claim 1 of '966 patent (filed Nov. 27, 2000)	“Dialing a Phone by Voice,” 1991 (Ex. A)
<p>A speech recognition method for a mobile telecommunication system which includes a voice recognizer capable of recognizing commands and characters received from a mobile telecommunication user, the method comprising the steps of:</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular car phones:</p> <p>“One application getting a lot of attention today is a speech recognition voice dialer for cellular car phones.” (Ex. A, at 95.)</p> <p>“Conventional dialers... require operators to look at a keypad to punch in numbers, a dangerous activity in moving vehicles. The voice dialer recognizes both male and female voices... It can have a vocabulary of 25 or more words, depending on memory size. Surprisingly, all this functionality requires only one digital signal processor (DSP).” (Ex. A, at 95.)</p>
<p>receiving a command from the mobile telecommunication user;</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular car phones that receive commands from cellular phone users:</p> <p>“An algorithm can be loaded that makes the dialer recognize up to 25 words... A grammar is also called a sentence model. The DSP and speech recognition algorithms understand and respond to sentence models...” (Ex. A, at 97.)</p>
<p>determining whether the command is a first or second command type;</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular car phones that determine what type of command was sent:</p> <p>“A typical application uses a grammar definition program built into, or downloaded to, the DSP memory, so either a man or woman can speak to a car telephone and say “Call office” or “Call home.”” (Ex. A, at 96.)</p> <p>“After the grammar is loaded, the voice dialer recognizes the following sequence of commands spoken in any order; call office, call home, or number (digits).” (Ex. A, at 97.)</p>

Claim 1 of '966 patent (filed Nov. 27, 2000)	“Dialing a Phone by Voice,” 1991 (Ex. A)
if the command is the first command type, collecting digits representing a telephone number to be dialed received from the mobile telecommunication user; and	<p>This reference describes speech recognition modules embedded in the handset of cellular car phones, that if the sent command is the first command type, the embedded module collects digits representing a telephone number to be dialed received from the cellular phone user:</p> <p>“He or she can also state the number to be called, using the words zero through nine for digits or the word “oh” for zero.” (Ex. A, at 96.)</p>
if the command is the second command type, determining whether a previously stored telephone number is associated with a keyword received from the mobile telecommunication user.	<p>This reference describes speech recognition modules embedded in the handset of cellular car phones, that if the sent command is the second command type, the embedded module determines whether a previously stored telephone number is associated with a keyword received from the cellular phone user:</p> <p>“The user can also define a repertory name, for example, “Call Harvey.”” (Ex. A, at 96.)</p>

There can be no issue that if the '966 patent covers speech recognition technology embedded in the hand-set of a cellular phone, then as a matter of law, the '966 patent is invalid in view of “Dialing a Phone by Voice,” by Pawate *et al.*

2. Prior Art Reference #2: “Voice Recognition in Cellular Mobile Telephones,” 1986

An article from 1986, entitled “Voice Recognition in Cellular Mobile Telephones,” by Thomas B. Schalk, pp. 24-28 (attached as Ex. B), describes a speech recognition for a mobile cellular device for vehicular use. The speech recognition technology described in this reference resides within the mobile cellular device. (Ex. B, at 24.) Listed in the chart below is excerpted language from this reference compared to the language of independent claim 1 of the '966 patent, as ART understands ScanSoft must be alleging that claim to be read:

Claim 1 of '966 patent (filed Nov. 27, 2000)	"Voice Recognition in Cellular Mobile Telephones," 1986 (Ex. B)
<p>A speech recognition method for a mobile telecommunication system which includes a voice recognizer capable of recognizing commands and characters received from a mobile telecommunication user, the method comprising the steps of:</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular phones:</p> <p>"The voice-dialing mobile cellular telephone is one of the most exciting and promising applications of speech recognition in telephony." (Ex. B, at 24.)</p> <p>"It is a software-based recognizer that requires a single general purpose microprocessor (Intel 80186) for implementation." (Ex. B, at 27.)</p>
<p>receiving a command from the mobile telecommunication user;</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular phones that receive commands from cellular phone users:</p> <p>"The functional operation of the voice unit centers around syntactically structured voice commands from the user, and voice responses from the voice control unit." (Ex. B, at 27.)</p>
<p>determining whether the command is a first or second command type;</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular phones that determine what type of command was sent:</p> <p>"To dial phone numbers, the user simply says "dial" followed by a string of digits... Speed-dialing is achieved by simply picking up the handset and saying "speed dial" followed by one of the ten destination descriptors such as "home," "office," "friend," etc." (Ex. B, at 27.)</p> <p>See Listing of vocabulary words and Figure 3. (Ex. B, at 26, 28.)</p> <p>See Figure 3. (Ex. B, at 28.)</p>

Claim 1 of '966 patent (filed Nov. 27, 2000)	“Voice Recognition in Cellular Mobile Telephones,” 1986 (Ex. B)
if the command is the first command type, collecting digits representing a telephone number to be dialed received from the mobile telecommunication user; and	This reference describes speech recognition modules embedded in the handset of cellular phones, that if the sent command is the first command type, the embedded module collects digits representing a telephone number to be dialed received from the cellular phone user: “To dial phone numbers, the user simply says “dial” followed by a string of digits.” (Ex. B, at 27.)
if the command is the second command type, determining whether a previously stored telephone number is associated with a keyword received from the mobile telecommunication user.	This reference describes speech recognition modules embedded in the handset of cellular phones, that if the sent command is the second command type, the embedded module determines whether a previously stored telephone number is associated with a keyword received from the cellular phone user: “Speed-dialing is achieved by simply picking up the handset and saying “speed dial” followed by one of the ten destination descriptors such as “home,” “office,” “friend,” etc.” (Ex. B, at 27.)

Again, there can be no issue that if the '966 patent covers speech recognition technology embedded in the hand-set of a cellular phone, then as a matter of law, the '966 patent is invalid in view of “Voice Recognition in Cellular Mobile Telephones,” by Thomas B. Schalk.

3. Prior Art Reference #3: “VoiceDial Operating Guide,” 1989

A document from 1989 entitled “VoiceDial Operating Guide, America’s First Speaker Independent Voice Command Systems for Cellular Telephones,” by Uniden, pp. 1-18 (attached as Ex. C), describes speech recognition for a cellular telephone. This reference is a product manual/operating guide for a Uniden cellular telephone that includes speech recognition technology reference embedded within the mobile device. Listed in the chart below is excerpted

language from this reference compared to the language of independent claim 1 of the '966 patent, as ART understands ScanSoft must be alleging that claim to be read:

Claim 1 of '966 patent (filed Nov. 27, 2000)	"VoiceDial Operating Guide," 1989 (Ex. C)
<p>A speech recognition method for a mobile telecommunication system which includes a voice recognizer capable of recognizing commands and characters received from a mobile telecommunication user, the method comprising the steps of:</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular phones:</p> <p>"Welcome to Uniden America Corporation's new world of voice command phone operation!" (Ex. C, at 1.)</p> <p>"You can voice command your phone in a number of ways: Dictate the digits of the phone number you want to dial. Say one of ten descriptive words to dial preprogrammed numbers. For example, "Office" to dial your office number, "Home" to dial your home number, etc." (Ex. C, at 1.)</p>
<p>receiving a command from the mobile telecommunication user;</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular phones that receive commands from cellular phone users:</p> <p>"The response "Ready" means that VoiceDial is waiting for you to speak a command." (Ex. C, at 3.)</p>
<p>determining whether the command is a first or second command type;</p>	<p>This reference describes speech recognition modules embedded in the handset of cellular phones that determine what type of command was sent:</p> <p>"Dial by Dictating Digits. Say "Phone"... "Start"... Say "Dial".. "Say the phone number, speaking <u>one digit at a time</u>..." (Ex. C, at 4.)</p> <p>"Dial by Descriptive Words. VoiceDial can dial numbers associated with any of the ten descriptive words listed below... Say "Call".. "Say one of the words from VoiceDial's descriptive word list: "Home" "Office" "Secretary"... (Ex. C, at 10.)</p>

Claim 1 of '966 patent (filed Nov. 27, 2000)	"VoiceDial Operating Guide," 1989 (Ex. C)
if the command is the first command type, collecting digits representing a telephone number to be dialed received from the mobile telecommunication user; and	<p>This reference describes speech recognition modules embedded in the handset of cellular phones, that if the sent command is the first command type, the embedded module collects digits representing a telephone number to be dialed received from the cellular phone user:</p> <p>"Dial by Dictating Digits. Say "Phone"... "Start"... Say "Dial".. "Say the phone number, speaking <u>one digit at a time</u>..." (Ex. C, at 4.)</p>
if the command is the second command type, determining whether a previously stored telephone number is associated with a keyword received from the mobile telecommunication user.	<p>This reference describes speech recognition modules embedded in the handset of cellular phones, that if the sent command is the second command type, the embedded module determines whether a previously stored telephone number is associated with a keyword received from the cellular phone user:</p> <p>"Dial by Descriptive Words. VoiceDial can dial numbers associated with any of the ten descriptive words listed below... Say "Call".. "Say one of the words from VoiceDial's descriptive word list: "Home" "Office" "Secretary"... (Ex. C, at 10.)</p> <p>"Store Telephone Numbers by Voice – To use VoiceDial's Dial by Descriptive Words... do the following: To store your home telephone number using the descriptive word "Home": Say "Phone".. "Start"... Say "Dial"... "Say your home number, <u>one digit at a time</u>..." (Ex. C, at 8.)</p>

Again, there can be no issue that if the '966 patent covers speech recognition technology embedded in the hand-set of a cellular phone, then as a matter of law, the '966 patent is invalid in view of "VoiceDial Operating Guide, America's First Speaker Independent Voice Command Systems for Cellular Telephones," by Uniden.

4. ART's Products Operate Like The Prior Art.

ART's speech recognition products, although proprietary and state-of-the-art in terms of the actual technology used, and although they offer more enhanced services than those described in '966 patent, operate functionally in the same manner as the prior art references discussed above: the speech recognition module is *embedded* in the hand-set of a cellular phone. In the chart below, the three prior art references described above are compared to ART's speech recognition products⁴ in the context of claim 1 of the '966 patent. (Aharonson Decl. ¶ 8.)

⁴ ScanSoft has not specifically charged any of ART's speech recognition products with infringement of its patent. (See Complaint ¶¶ 3, 8.) Rather, ScanSoft generally states that ART's "products" allegedly infringe the patent. To satisfy the notice pleading requirements, ScanSoft is required, at a minimum, to allege that at least one of ART's products infringes the '966 patent. See, e.g., Gen-Probe, Inc. v. Amoco Corp., 926 F. Supp. 948, 961 (S.D. Cal. 1996) (granting motion to dismiss for failure to state a claim because plaintiff did not provide adequate notice of allegedly infringing products). This motion is based on the assumption that ScanSoft believes that at least one of ART's products infringe – for the reasons ART argues herein.

Claim 1 of the '966 patent (filed Nov. 27, 2000)	"Dialing a Phone by Voice," 1991 (Ex. A)	"Voice Recognition in Cellular Mobile Telephones," 1986 (Ex. B)	"VoiceDial Operating Guide," 1989 (Ex. C)	ART's Speech Recognition Products (Ex. D)
<p>A speech recognition method for a mobile telecommunication system which includes a voice recognizer capable of recognizing commands and characters received from a mobile telecommunication user, the method comprising the steps of:</p>	<p>"One application getting a lot of attention today is a speech recognition voice dialer for cellular car phones." (Ex. A, at 95.)</p> <p>"Conventional dialers... require operators to look at a keypad to punch in numbers, a dangerous activity in moving vehicles. The voice dialer recognizes both male and female voices... It can have a vocabulary of 25 or more words, depending on memory size. Surprisingly, all this functionality requires only one digital signal processor (DSP)." (Ex. A, at 95.)</p>	<p>"The voice-dialing mobile cellular telephone is one of the most exciting and promising applications of speech recognition in telephony." (Ex. B, at 24.)</p> <p>"It is a software-based recognizer that requires a single general purpose microprocessor (Intel 80186) for implementation." (Ex. B, at 27.)</p>	<p>"Welcome to Uniden America Corporation's new world of voice command phone operation!" (Ex. C, at 1.)</p> <p>"You can voice command your phone in a number of ways: Dictate the digits of the phone number you want to dial. Say one of ten descriptive words to dial preprogrammed numbers. For example, "Office" to dial your office number, "Home" to dial your home number, etc." (Ex. C, at 1.)</p>	<p>Like the prior art, ART's products have speech recognition modules embedded in the handset of cellular phones.</p>
<p>receiving a command from the mobile telecommunication user;</p>	<p>"An algorithm can be loaded that makes the dialer recognize up to 25 words... A grammar is also called a sentence model. The DSP and speech recognition algorithms understand and respond to sentence models..." (Ex. A, at 97.)</p>	<p>"The functional operation of the voice unit centers around syntactically structured voice commands from the user, and voice responses from the voice control unit." (Ex. B, at 27.)</p>	<p>"The response "Ready" means that VoiceDial is waiting for you to speak a command." (Ex. C, at 3.)</p>	<p>Like the prior art, ART's products have speech recognition modules embedded in the handset of cellular phones that receive commands from cellular phone users.</p>

Claim 1 of the '966 patent (filed Nov. 27, 2000)	"Dialing a Phone by Voice," 1991 (Ex. A)	"Voice Recognition in Cellular Mobile Telephones," 1986 (Ex. B)	"VoiceDial Operating Guide," 1989 (Ex. C)	ART's Speech Recognition Products (Ex. D)
determining whether the command is a first or second command type;	<p>"A typical application uses a grammar definition program built into, or downloaded to, the DSP memory, so either a man or woman can speak to a car telephone and say "Call office" or "Call home." (Ex. A, at 96.)</p> <p>"After the grammar is loaded, the voice dialer recognizes the following sequence of commands spoken in any order; call office, call home, or number (digits)." (Ex. A, at 97.)</p>	<p>"To dial phone numbers, the user simply says "dial" followed by a string of digits... Speed-dialing is achieved by simply picking up the handset and saying "speed dial" followed by one of the ten destination descriptors such as "home," "office," "friend," etc." (Ex. B, at 27.)</p> <p>See Listing of vocabulary words and Figure 3. (Ex. B, at 26, 28.)</p> <p>See Figure 3. (Ex. B, at 28.)</p>	<p>"Dial by Dictating Digits. Say "Phone"... "Start"... Say "Dial"... "Say the phone number, speaking <u>one digit at a time</u>..." (Ex. C, at 4.)</p> <p>"Dial by Descriptive Words. VoiceDial can dial numbers associated with any of the ten descriptive words listed below... Say "Call"... "Say one of the words from VoiceDial's descriptive word list: "Home" "Office" "Secretary"... (Ex. C, at 10.)</p>	Like the prior art, ART's products have speech recognition modules embedded in the handset of cellular phones that determine what type of command was sent.
if the command is the first command type, collecting digits representing a telephone number to be dialed received from the mobile telecommunication user; and	"He or she can also state the number to be called, using the words zero through nine for digits or the word "oh" for zero." (Ex. A, at 96.)	"To dial phone numbers, the user simply says "dial" followed by a string of digits." (Ex. B, at 27.)	"Dial by Dictating Digits. Say "Phone"... "Start"... Say "Dial"... "Say the phone number, speaking <u>one digit at a time</u> ..." (Ex. C, at 4.)	Like the prior art, ART's products have speech recognition modules embedded in the handset of cellular phones, that if the sent command is the first command type, the embedded module collects digits representing a telephone number to be dialed received from the cellular phone user.

Claim 1 of the '966 patent (filed Nov. 27, 2000)	"Dialing a Phone by Voice," 1991 (Ex. A)	"Voice Recognition in Cellular Mobile Telephones," 1986 (Ex. B)	"VoiceDial Operating Guide," 1989 (Ex. C)	ART's Speech Recognition Products (Ex. D)
if the command is the second command type, determining whether a previously stored telephone number is associated with a keyword received from the mobile telecommunication user.	"The user can also define a repertory name, for example, "Call Harvey." (Ex. A, at 96.)	"Speed-dialing is achieved by simply picking up the handset and saying "speed dial" followed by one of the ten destination descriptors such as "home," "office," "friend," etc." (Ex. B, at 27.)	<p>"Dial by Descriptive Words. VoiceDial can dial numbers associated with any of the ten descriptive words listed below... Say "Call".. "Say one of the words from VoiceDial's descriptive word list: "Home" "Office" "Secretary"... (Ex. C, at 10.)</p> <p>"Store Telephone Numbers by Voice – To use VoiceDial's Dial by Descriptive Words... do the following: To store your home telephone number using the descriptive word "Home": Say "Phone".. "Start"... Say "Dial"... "Say your home number, <u>one digit at a time</u>..." (Ex. C, at 8.)</p>	Like the prior art, ART's products have speech recognition modules embedded in the handset of cellular phones, that if the sent command is the second command type, the embedded module determines whether a previously stored telephone number is associated with a keyword received from the cellular phone user.

If the '966 patent covers embedded speech recognition systems like ART's (as ScanSoft contends), the patent must be invalid.

IV. CONCLUSION

The '966 patent must be declared invalid if it is construed to cover ART's products, as ScanSoft alleges, in light of the prior art references that show that speech recognition technology embedded in mobile devices was well known before the patent application was filed.

REQUEST FOR ORAL ARGUMENT

Pursuant to Local Rule 7.1(D), ART hereby requests that this Court set this motion for oral argument. ART believes that oral argument would assist the Court in considering the motion. ART respectfully requests that the motion be set for hearing as soon as practicable.

Respectfully submitted,

ART ADVANCED RECOGNITION
TECHNOLOGIES, INC.

By its Counsel,

/s/ Steven M. Bauer

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Dated: June 16, 2004

Certificate of Service

I hereby certify that on June 16, 2004, a true and correct copy of the foregoing document was served upon opposing counsel by use of the Court's ECF system.

/s/ Jeremy P. Oczek

Jeremy P. Oczek